

**TOWN OF DAVIE
REGULAR MEETING
SEPTEMBER 6, 2006**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 9:21 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Truex, Vice-Mayor Crowley and Councilmembers Caletka, Paul and Starkey. Also present were Acting Town Administrator Cohen, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

3. OPEN PUBLIC MEETING

Ben Trapani, Driver/Engineer, advised that the firefighters' union had investigated the rising cost of health insurance and turned their findings over to the Town, but the Town had taken no action. The union had also investigated the practice of hiring battalion chiefs and other management positions from outside as well as why Fire Department personnel were ordered to complete FEMA documents for overtime hours they had never worked. Mr. Trapani said the union had expressed numerous grievances to the Human Resources Department that had remained unresolved for months. He added that the firefighters had been working almost one year without a contract. Councilmember Paul advised that she had responded to an e-mail from Mr. Trapani indicating that she would meet with him on the issues but had not received a response. Councilmember Starkey said that she had never received documents regarding the investigations and questioned the status. Mr. Cohen advised that the documents he received were from six months ago and staff was moving forward creating specifications. Councilmember Starkey indicated that Council wanted to help employees with problems but she "couldn't chase ghosts" without documentation. Mayor Truex agreed to meet with the union, but he wanted someone from Administration to attend as well. Councilmember Starkey felt someone from Council should also attend.

Robert Belizaire, Fire Lieutenant, reminded Council that he had previously invited Council to discuss these issues and noted that the investigation had concluded that their health insurance funds suffered "gross mismanagement." The union had provided Town administrators with all their documentation and made suggestions for improvement, but nothing had been done yet. Lieutenant Belizaire mentioned the FEMA overtime investigation, which he wanted to address this issue with Council as well. Mr. Cohen agreed to ask the Police Chief John George if this should be referred to another agency.

Vincent Mueller, Secretary of the Davie Professional Firefighters' Union, said the firefighters' administration had "completely failed to provide an adequate number of engine company officers" resulting in firefighters working 48 to 96 hours straight. Mr. Mueller felt this was due to poor management on behalf of Fire Chief Don DiPetrillo. He listed several "intolerable conditions" and health issues at many of the Fire Stations. Mr. Mueller said the firefighters had been complaining about these situations to Chief DiPetrillo and the Town Administrator's Office for 18 months; however, Mr. Cohen may not be aware of all of these issues.

Joe Piccolo, Firefighter/Paramedic, stated that morale in the Town's Fire Department was down because of "attitudes and actions" of everyone from the firefighters to Council. Mr. Piccolo felt the Fire Department was in a "sad state of affairs" and asked Council for their support.

Phil Busey, 837 SW 120 Way, thanked the neighborhoods of west Davie who helped elect Martin Kiar as the Democratic nominee for State House District 97. Mr. Busey felt Mr. Kiar was "a man of vision and integrity."

Todd Bothel, Executive Director of the Old Davie School, extended an invitation to the School's annual back-to-school dinner on September 16th.

TOWN COUNCIL MINUTES

SEPTEMBER 6, 2006

Sylvia Clements said she had tried to obtain public records dating to the 1999 audit and did not know what the law was regarding the destruction of records. Town Clerk Muniz agreed to speak with Ms. Clements about her requests. Ms. Clements questioned Mr. Kiar's legal report and the length of time between updates. She stated that this "position" should be removed from the budget or put in a position somewhere else because "she was not doing her job." Ms. Clements discussed the Spur Road project and Bergeron contract. Mayor Truex said they were aware of this situation and there was litigation regarding this. Mr. Kiar advised that a memorandum was distributed on this issue to Ms. Clements' lawyer.

John Ladue presented copies of "nasty" anonymous letters he had received regarding his fence. He asked for Councilmember Starkey's help moving a school bus stop on 29th Court with Councilmember Starkey explaining that the bus stops were assigned at the School Board's discretion. She suggested that Mr. Ladue contact Marty Rubenstein on this matter.

Francesca Ramos 3011 NW 78 Terrace, explained that she had been denied a permit to replace the porch she lost to the hurricane. Mr. Cohen advised Ms. Ramos to contact Development Services Director Mark Kutney on this matter.

Bryan Caletka, 6332 SW 39 Court, requested that the Town hire an in-house attorney as he felt this would provide better service and restore accountability to all departments. He indicated that if the Economic Development employee was moved to the Developmental Services Department, that office space could be used by the in-house attorney. Mr. Caletka felt the Town could realize \$250,000 in savings per year. Mayor Truex stated that Mr. Caletka's comparisons were not "apples to apples" and the Town would not realize the savings he had predicted. Mr. Kiar reminded Council that he had already sent a memorandum comparing the present system and in-house legal counsel.

Glenn Weaver, Fire Lieutenant, said there were many serious issues in Town and felt that Mr. Cohen had been aware of most of these issues since he began as Acting Town Administrator in November. Mr. Weaver said he had sent numerous e-mails regarding these problems to Mr. Cohen and Council and had not received replies. There was a particular issue regarding "175" funds that Mr. Weaver had been pursuing. Councilmember Starkey stated that the 175 funds, if unused, would go back to the State, and asked Mr. Cohen if this issue would be resolved before they lost the funds. Mayor Truex said they had discussed this issue at the last Executive Session and it must be discussed further.

Councilmember Paul asked to add an item to Old Business and distributed copies of information received from Bob Slavin to Council.

4. FORENSIC AUDIT

Mike Fahndrich, representing Mayer Hoffman McCann, explained that auditors had performed a forensic accounting vulnerability assessment and issued their report on May 15th indicating that the Town had some fraud vulnerability. The Town had then requested that detailed tests be performed to determine the extent of fraud that may have occurred or any cost recoveries they could find. Mr. Fahndrich presented their findings and recommendations.

Testing included:

- Verification of major projects and other costs
- Analysis of vendor accounts payable information to confirm the nature and substance of reported transactions
- Validation of suspect vendors and substantiation of questionable transactions Findings
- \$211,287 in potential recovery dollars
 - ~ Overpayment of \$43,123 for recreational paths

TOWN COUNCIL MINUTES

SEPTEMBER 6, 2006

- ~ Overpayment of \$61,522 concrete removal and replacement
- ~ Recovery for items purchased directly by the Town for which the vendor did not make the appropriate adjustment: \$60,107
- ~ Use of Town employees and goods purchased by the developer who was responsible for the work under Davie Code Section 12.33.0 \$46,534
- 25% of “9999” coded vendors [code for one-time vendors] were used more than once
- Over 56% of vendors in the vendor list were inactive since 1999
- Several vendors created multiple time with alternate spellings and different vendor numbers

Recommendations

- Validate all active and new vendors
- Periodic review of all construction projects by appropriate Town employee to ensure work is being performed according to specifications and change orders have been properly reflected
- Establish formal, written policies and procedures regarding unethical conduct and relationships that may involve potential conflicts of interest

Steve Nelder, also representing Mayer Hoffman McCann, thanked staff for their cooperation.

Mayor Truex asked whether Mr. Fahndrich recommended independent verification that the Town had properly implemented all of his recommendations. Mr. Fahndrich said the Town could hire someone internally to perform this oversight, or he and Mr. Nelder could be contracted as project manager for implementation and oversight.

Councilmember Starkey suggested the creation of a compliance officer within a department or working under Council to monitor the timeliness of projects and the implementation of procurement policies. She asked Mr. Fahndrich if he would recommend an internal position or consultant to provide this service. Mr. Fahndrich said, “in a perfect world” they would hire an internal audit person or department to monitor everything, but this was prohibitively expensive. If they concentrated on accomplishing the objectives identified in the report in order to avoid future problems, they could limit the position to a consultant.

Mr. Cohen confirmed that three positions had been approved in the Finance Department and he anticipated that these individuals would be handling these issues. He felt it might be advisable to have an outside consultant confirm that the new policies and procedures had been implemented properly. Mr. Fahndrich noted that the internal audit person usually reported to Council or to an audit committee, not to the Town Administrator.

Councilmember Paul wanted to engage the consultants to oversee implementation and report to Council. Councilmember Starkey indicated that until the policies and procedures were in place, they should have outside oversight and this person should report to Council. She felt they should begin whatever process was advisable to recover the money lost. Mr. Fahndrich stated that they were available to help with discussions regarding recovery.

Councilmember Starkey wondered if there were any other opportunities for recovery. Mr. Fahndrich explained that they had limited their research into potential vendor overpayments to a minimum of \$5,000 dating back to 2003. He felt that there was a cost benefit issue for performing additional research. Councilmember Starkey wanted Mr. Fahndrich, Mr. Cohen and Mr. Underwood’s opinions of whether they should request that Mr. Fahndrich perform additional research. Mr. Fahndrich felt that during the implementation of the new procurement policies, they could consider whether additional research would be worthwhile.

**TOWN COUNCIL MINUTES
SEPTEMBER 6, 2006**

Mr. Underwood confirmed for Councilmember Paul that there were civil statutes of limitation, but the best way to handle recovery issues was to negotiate. Mr. Kiar remarked that the appropriate statute was F.S.S 95.11.

5. APPROVAL OF CONSENT AGENDA

Minutes

- 5.1. July 19, 2006 (Regular Meeting)
- 5.2. July 31, 2006 (Workshop Meeting)
- 5.3. August 11, 2006 (Emergency Meeting)
- 5.4. August 2, 2006 (Regular Meeting)

Resolutions

- R-2006-236 5.5. **LEASE SUPPLEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE LEASE SUPPLEMENT BETWEEN AMERICAN TOWER AND VERIZON WIRELESS CONCERNING THE MONOPOLE TELECOMMUNICATIONS TOWER LOCATED AT 3800 SW 92 AVENUE; AND PROVIDING FOR AN EFFECTIVE DATE. (Town to receive \$14,000/annually)
- R-2006-237 5.6. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ACCEPT THE BID RECOMMENDATION FOR METAL ROOF REPAIR AT VARIOUS TOWN FACILITIES. (Inclan Painting & Waterproofing, Corp - \$14,500; not budgeted)
- R-2006-238 5.7. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID BY HALL-MARK FIRE APPARATUS, INC. (A SINGLE SOURCE PROVIDER) FOR THE PURCHASE OF HYDRAULIC EXTRICATION TOOLS AND EQUIPMENT FOR THE SPECIAL OPERATIONS VEHICLE (TRT TEAM) FOR \$19,470.57.
- R-2006-239 5.8. **FIRM SELECTION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF QUALITY TRANSPORTATION SERVICES, INC. TO PROVIDE OPERATION OF BUS TRANSIT SYSTEM SERVICES FOR THE BLUE ROUTE (WEST) AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
- R-2006-240 5.9. **EASEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ACCEPT A QUIT CLAIM DEED FOR 25' OF RIGHT-OF-WAY FROM DANIEL D. AND MICHELE MILLER; AND PROVIDING FOR AN EFFECTIVE DATE.
- R-2006-241 5.10. **MITIGATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,, APPROVING A REQUEST FOR MITIGATION OF THE CODE COMPLIANCE LIENS IN CASE NO. 02-049 FROM \$5400.00 IN AMOUNT TO \$1685.98, AND PROVIDING AN EFFECTIVE DATE.

TOWN COUNCIL MINUTES
SEPTEMBER 6, 2006

- 5.11. **CONTRACT EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN EXTENSION OF THE CONTRACT BETWEEN THE TOWN OF DAVIE AND SWIMAMERICA SERVICES, INC. FOR PROVISION OF AQUATICS PROGRAM SERVICE. (Town to receive \$12,000/annually)
R-2006-242
- 5.12. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH BROWARD COUNTY FOR THE ANNEXATION OF PINE ISLAND RIDGE; AND PROVIDING FOR AN EFFECTIVE DATE.
R-2006-243
- 5.13. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH BROWARD COUNTY FOR THE ANNEXATION OF UNITED RANCHES; AND PROVIDING FOR AN EFFECTIVE DATE.
R-2006-244
- 5.14. **AGREEMENT RENEWAL** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO RENEW THE INTERLOCAL AGREEMENT WITH KENNETH C. JENNE, II, SHERIFF OF BROWARD COUNTY TO PROVIDE FOR DELIVERY OF EMERGENCY MEDICAL AND FIRE PROTECTION SERVICES IN THE PINE ISLAND RIDGE AREA; PROVIDING FOR TERMINATION, AND PROVIDING FOR AN EFFECTIVE DATE. (Town to receive \$443,756.25)
R-2006-245
- 5.15. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE PURCHASE AND INSTALLATION OF INTERIOR OFFICE, WORKSTATIONS, AND TRAINING ROOM FURNITURE AND THE MOVING OF EXISTING FURNITURE FOR THE PUBLIC WORKS/FIRE ADMINISTRATIVE BUILDING FROM WORKSCAPES SOUTH, LLC. UTILIZING THE STATE OF FLORIDA CONTRACT NO. 425-001-06-1.
R-2006-246
- 5.16. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, TO PURCHASE ZEAGLE RAPID ENTRY HDPS DIVE RESCUE SYSTEM AND ASSOCIATED EQUIPMENT FROM WORLD WATER SPORTS (A SOLE SOURCE PROVIDER). (\$29,720)
R-2006-247
- 5.17. **PERSONNEL RULES** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE FLORIDA AMENDING THE TOWN OF DAVIE PERSONNEL RULES AND REGULATIONS, RULE IV, ENTITLED "COMPENSATION PLAN", SECTION 9, ENTITLED "OVERTIME" AND SECTION 11, ENTITLED "COMPENSATION FOR SALARIED, EXEMPT EMPLOYEES DURING EMERGENCY MANAGEMENT"; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Caletka pulled items 5.3, 5.8 and 5.10 from the Consent Agenda; Vice-Mayor Crowley pulled items 5.12 and 5.13. Councilmember Paul pulled items 5.1, 5.11, 5.15 and 5.16. Mayor Truex pulled item 5.17.

TOWN COUNCIL MINUTES SEPTEMBER 6, 2006

Councilmember Paul made a motion, seconded by Mayor Truex to approve the consent agenda minus items 5.1, 5.3, 5.8, 5.10, 5.11, 5.12, 5.13, 5.15, 5.16 and 5.17. In a voice vote, all voted in favor. (Motion carried 5-0)

6. DISCUSSION OF CONSENT AGENDA ITEMS

5.1 Mr. Kiar stated that on page 7, in Section 3.10, it was Mr. Cohen, who made the remarks about a firm that had done work for the Town. In Section 3.11, it was Mr. Kiar who said he “could not find anything in the agreement” and Mr. Cohen had added that there was an oversight.

Councilmember Paul made a motion, seconded by Mayor Truex, to table this item. In a voice vote, all voted in favor. (Motion carried 5-0)

5.3 Councilmember Caletka asked that this meeting be transcribed verbatim.

Councilmember Starkey made a motion, seconded by Mayor Truex, to table this item. In a voice vote, all voted in favor. (Motion carried 5-0)

5.8 Dawn Marossy, a Plantation resident, said she favored awarding the contract to Quality Transportation Services, because their service was “phenomenal.” She mentioned a driver named Vernon who helped her use the bus bike rack because she was disabled.

Councilmember Caletka said that they would pay 10% more for Quality’s service. He stated he had ridden the green route twice, and had stopped because “a lot of unfortunate things happened” such as the driver’s stop at a quick mart to purchase a beer. At another time, the driver had not dropped Councilmember Caletka where he requested and the driver had informed Councilmember Caletka that it was because he had not tipped the driver the previous day. Councilmember Caletka preferred to go with Limousines of South Florida.

Vice-Mayor Crowley remarked on the fact that the service was more expensive from Quality as well and favored using the firm that offered the better price. Mr. Cohen explained that Council had wanted different vendors to handle the different routes so that if there was an issue with one, they would have the other on which to fall back.

Councilmember Paul noted a discrepancy between Quality’s corporate names on papers filed with the Town and on the Internet and she felt these should be consistent. She did not understand the reasoning behind not choosing the lowest contract bidder.

John Voigt, representing Quality Transportation Services, said the company had addressed the service issues. He stated “the other company was awarded the blue line when they were allowed to match their price...my client came here tonight prepared to match the other vendor’s price.” Mr. Voigt noted that both firms had improved service due to the competition.

Louie Herring, Quality Transportation Services General Manager, presented copies of statistical studies performed by the Town and noted that a study of the past six-months showed that Quality had 19 complaints compared to Limousines of South Florida 74. A study conducted when Quality had both routes indicated that there were 22 complaints. Mr. Herring noted that Quality had offered to extend their contract at \$28, but the Town had decided to put the contract out to bid. Mr. Herring offered to eliminate the GPS service to reduce the cost of the contract, if the Town wished.

Mark Levitt, president of Limousines of South Florida, explained that Quality’s 19 complaints were from the past four months, and in that time, Limousines had no complaints. Mr. Levitt said they had corrected the problems that had resulted in the complaints.

TOWN COUNCIL MINUTES
SEPTEMBER 6, 2006

Program Manager Susan Dean did not agree with Mr. Levitt's assessment and felt some pages were missing from the report from which Mr. Levitt quoted. She clarified that Mr. Herring's comparison was correct for the period ending in April 2006. Since then, Quality had 19 complaints and Limousines had 21.

Vice-Mayor Crowley made a motion, seconded by Councilmember Caletka, to award the contract to Limousines of South Florida. In a voice vote, all voted in favor. (Motion carried 5-0)

5.10 Councilmember Caletka noted that his district had many Code enforcement cases and felt the residents relied too much on mitigation. He wanted to set a precedent by refusing to mitigate any cases for a while.

Councilmember Caletka made a motion to refuse mitigation of this case. The motion died due to lack of a second.

Councilmember Paul agreed with Councilmember Caletka "in theory" but in this particular case, she had compassion for the resident and felt the fines should be mitigated.

Mayor Truex remembered that previously, mitigation guidelines had not been adhered to and fines were severely reduced; however, the guidelines had been tightened. He felt that mitigation was a reward for coming into compliance; however, if there were aggravating circumstances, there should be no mitigation.

Councilmember Caletka made a motion to reduce the fine to \$2,700. The motion died due to lack of a second.

Mr. Kutney confirmed for Councilmember Starkey that the owner in this case had a tenant on the property that did not make the owner aware of the notices.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve the mitigated amount. In a voice vote, with Councilmember Caletka dissenting, all voted in favor. (Motion carried 4-1)

Councilmember Paul suggested Council revisit the mitigation guidelines.

5.11 Councilmember Paul remarked on differences in the company names and addresses on documentation for this contract.

Karen King, owner of SwimAmerica, explained that she had combined bank accounts from two businesses and had neglected to change the addresses on the contract. She confirmed that 744 Riverside Drive was the correct company address. Ms. King confirmed that she had already provided proof of insurance.

Councilmembers Paul and Starkey discussed the need for a checklist of required items that employees would sign and date as each document was received, with final sign-off from the Town Attorney.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

Richard Romano, 15917 SW 20 Street, remarked that SwimAmerica had a "haphazard" payment history and owed the Town approximately \$12,000 on past contracts.

5.12 Vice-Mayor Crowley asked how the redistricting was progressing. Town Clerk Muniz advised that staff had granted an extra week on the submittals deadline due to Tropical Storm Ernesto. He felt a presentation could be made at the September 20th meeting.

Vice-Mayor Crowley made a motion, seconded by Councilmember Paul, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

TOWN COUNCIL MINUTES
SEPTEMBER 6, 2006

5.13. Vice-Mayor Crowley stated he had the same concerns on this item as they had discussed for the previous item.

Vice-Mayor Crowley made a motion, seconded by Councilmember Paul, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

5.15 Councilmember Paul said she had the same concerns about documentation she had brought up earlier. Fire Chief Don DiPetrillo advised that this was a State contractor and indicated that this contractor provided the lowest cost.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

5.16 Councilmember Paul had the same concerns about documentation she had brought up earlier. She noted that World Water Sports was inactive and if Holiday Diver was the actual supplier, the paperwork was incorrect. Chief DiPetrillo explained that they did business with World Water Sports, a DBA, and noted that the resolution covered the person with whom they were dealing. Mayor Truex explained that World Water Sports was a fictitious name, the owner of which was Holiday Diver, Inc., an active corporation. Councilmember Starkey suggested adding DBA to the resolution and staff report.

Councilmember Paul made a motion, seconded by Mayor Truex, to approve with the above-mentioned correction to the resolution. In a voice vote, all voted in favor. (Motion carried 5-0)

5.17 Mr. Cohen explained that the non-represented employees would now be paid double time for overtime in an emergency, as the Police and Fire employees were. Human Resources Director Mark Alan explained that the current contract specified that overtime hours began after 37.5 hours. During a declared emergency, such as a hurricane, these employees would be paid double time for any hours worked.

Councilmember Starkey felt this was “totally out of line” in light of their attempts to cut the budget. Councilmember Caletka noted that this would include salaried employees, directors and managers, and said, “you’re salaried for a reason and sometimes you go over” and he could not support this resolution. Town Clerk Muniz explained that during an emergency, an employee could be called upon to do something “totally outside of the norm” and “putting themselves on the line” and this provided an incentive. This was intended to put the non-represented employees on a par with the represented employees. He added that there was FEMA compensation available for this, provided it was written into the Town’s personnel rules. Councilmember Caletka remarked that the Town was still responsible for a portion of it.

Before Council considered this, Councilmember Starkey wanted a study to determine if other municipalities provided this kind of compensation. Councilmember Starkey knew that Miami-Dade did not offer this kind of compensation, and said, “they get what they get, if it means that they have to put in the extra duty, they know that that comes with the job, period. And if they don’t like that, then I’m sure there’s other jobs, other places they can go, and if they just want a secretarial job where they don’t have to get called out on a case of an emergency, then they go home.” Councilmember Starkey felt time and a half was appropriate. She agreed that first responders were different.

Town Clerk Muniz informed Council that this included public safety command staff in the Police and Fire Departments. Mr. Alan said it also included management staff and other professionals not in a collective bargaining unit. Councilmember Starkey resented being asked to do this, without any consult or justification. She felt it would only cause bad blood between Council and management staff if Council denied the resolution.

TOWN COUNCIL MINUTES

SEPTEMBER 6, 2006

Vice-Mayor Crowley wanted to table the item to obtain additional backup information. He thought some employees might be exempt from the policy, but keep the non-representative employees that work next to the blue- and white-collar employees. Councilmember Starkey wanted to deny the request, stating, "by the time I see it, it's going to be on every agenda until then and it'll be in our face and they'll never get that study done." Mayor Truex acknowledged that language in some of the contracts and policy manuals was unclear, and he could not fault someone for seeking clarification.

Councilmember Starkey made a motion, seconded by Councilmember Caletka, to deny. In a voice vote, with Councilmember Paul, Vice-Mayor Crowley and Mayor Truex dissenting, all voted against. (Motion was defeated 2-3)

Vice-Mayor Crowley made a motion, seconded by Mayor Truex, to table to October 18, 2006. In a voice vote, with Councilmembers Starkey and Caletka dissenting, all voted in favor. (Motion carried 3-2)

Council requested that the report include data on what represented and non-represented employees were paid in other municipalities, and which Davie employees were included in this resolution.

7. PUBLIC HEARING

Resolution

- 7.1. **CAPITAL PROJECTS - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ADOPTING THE 5-YEAR CAPITAL PROJECTS PROGRAM FOR THE TOWN OF DAVIE FOR FISCAL YEARS 2007- 2011.** (tabled from August 16, 2006)

Town Clerk Muniz read the resolution by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Paul reminded Council that the item was tabled to allow the Budget Advisory Committee additional time to review, but they had not had a meeting in the interim. Budget and Finance Director Bill Underwood thought Mr. Oaks' memo addressed the operating budget, on which Council had already taken some action. Mr. Oaks had wanted the Committee to have the opportunity to discuss what should and should not be in the Capital Improvement Program. Mr. Underwood noted that Davie's Capital Improvement Program addressed more than infrastructure.

Councilmember Starkey made a motion, seconded by Councilmember Paul, to table the item to October 18, 2006. In a voice vote, all voted in favor. (Motion carried 5-0)

Ordinance - Second and Final Reading

- 2006-23 7.2. **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 7-2-05, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO RM-5, LOW MEDIUM DWELLING DISTRICT AND FROM AG, AGRICULTURAL DISTRICT TO RM-5, LOW MEDIUM DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.** (ZB 7-2-05, Khavanin/Landau, 1300 Flamingo Road)
Planning and Zoning Board recommended approval {Approved on first reading subject to agreeing on a number of affordable and/or workforce housing prior to or at the same time as site plan approval with the stipulation of the applicant - all voted in favor}

**TOWN COUNCIL MINUTES
SEPTEMBER 6, 2006**

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Housing and Community Development Director Shirley Taylor-Prakelt said that she had met with the developers and there were problems with making some of these units affordable. The mortgage and assessment fees would prove too expensive for the median-income person. Ms. Taylor-Prakelt stated that the developers were amenable to working with her department on affordable housing in another project in the future.

Councilmember Paul said the developer had agreed to work with Ms. Taylor-Prakelt on a workforce housing project as soon as possible. Ms. Taylor-Prakelt clarified that the developer had committed to working with her to identify a site for a potential project in the future.

Gus Khavanin, representing the petitioner, said that the petitioner had committed to work with the Town and would meet with Ms. Taylor-Prakelt to consider locations.

Councilmember Starkey made a motion, seconded by Councilmember Paul, to approve. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 4-1)

Quasi Judicial Items

- 7.3. **VARIANCE** - V 2-6-06, Novaro, 3101 SW 144 Terrace (R-1) (to increase the maximum fence height in the front property setback from 4 feet to 5-6 feet) *Planning and Zoning Board recommended approval*

Mr. Kiar read the rules of evidence and swore in the witnesses. Planning and Zoning Manager Bruce Dell summarized the planning report.

Mr. Novaro, the petitioner, explained that after the fence was installed, the inspector had advised that they could not have a four-foot fence. Mr. Dell confirmed that granting the variance would resolve the issue.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmembers stated their disclosures.

Councilmember Paul made a motion, seconded by Mayor Truex, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 7.4. **VARIANCE** - Cossin/Khan, 10940 SW 28 Court (R-1) (to reduce the minimum side setback from the property line from 25 feet to 21.5 feet) *Planning and Zoning Board recommended approval*

Mr. Kiar read the rules of evidence and swore in the witnesses. Planning and Zoning Manager Bruce Dell summarized the planning report. Mr. Dell confirmed that no letters of opposition had been received from the neighbors.

Mr. Kahn, the petitioner, presented letters from his two nearest neighbors stating they had no objection to the variance. Mr. Kahn noted that the new addition with the hip roof would be much stronger than the portion damaged in Hurricane Wilma. The variance was needed to accommodate the hip roof meeting the rest of the house.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmembers stated their disclosures.

TOWN COUNCIL MINUTES
SEPTEMBER 6, 2006

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 7.5. **SPECIAL PERMIT** - SE 4-1-05, Sawchuk/Davie Travel Center, 4751 SW 30 Street (TS) (to allow two manufactured office trailers on the site) *Planning and Zoning Board recommended approval of a 12-month time period on the two temporary trailers to run concurrently with special permit SE 10-1-05*

Dennis Mele, representing the petitioner, agreed to hear items 7.5 and 7.6 together.

Mr. Kiar read the rules of evidence and swore in the witnesses. Mr. Kutney summarized the planning report. He remarked that there was an on-going Code compliance case on the property regarding existing use, as the applicants had begun the use without the special permit.

Mr. Kutney explained that there was a travel trailer park with some residents that were “there inappropriately” in the vicinity. He confirmed that obtaining the special permit was the remedy required to comply with the Code violation.

Councilmember Paul presented an e-mail received from Code Compliance Official Daniel Stallone showing the status of the code violations at the property.

Mr. Stallone presented photos of the violations at the property from the Special Magistrate hearing. He confirmed that the most significant portion of the items present on the property would not be allowed to exist on a Truck Stop designated property. Councilmember Starkey said the developer had indicated that someone from staff had given permission for the vehicles to be on the property. Mr. Kutney said this was not true which was confirmed by Steve Fildon, who also represented the petitioner. Staff had only informed him that this would only be allowed with a special permit. Councilmember Starkey said Mr. Fildon had said Deputy Planning and Zoning Manager Marcie Nolan had given permission.

Councilmember Starkey resented that Mr. Fildon was trying to make money on the site in any way possible because development had been held up. Mr. Stallone noted that Council could impose conditions in addition to removal of items on the property that contributed to the Code violations through the special permit. Mr. Kutney confirmed that Council could put limitations on density of the vehicles stored at the site.

Mr. Mele stated the owner agreed to all conditions attached by Planning and Zoning and had bought the property zoned Truck Stop, intending to put in the Truck Stop, but when he spoke with the Town, the owner was asked to do Transit-Oriented Corridor (TOC) development instead. The processes the Town must complete to this end were lengthy and would take perhaps three years. Therefore, the owner had wanted to put the property to other use while waiting for the land use amendments, creation of new zoning districts and Development of Regional Impacts (DRI), and staff advised him this would require a special permit.

Mr. Mele explained that at the Special Magistrate hearing, the deadline for removal of the vehicles was set at October 1st, and the vehicle owners had been given notice to remove them by October 1st. Mr. Mele said that the owner had not been just waiting for the land use and zoning changes, but also facilitating these. Mr. Fildon had paid Mr. Mele to help the Town with the TOC land use at the County level and the Town had also asked the owner to contribute \$300,000 toward filing the applications for the DRI. Mr. Mele had drawn up a tentative agreement pursuant to this request, and this was currently under staff review.

Mr. Mele showed Council how they had complied with Planning and Zoning’s stipulations when they approved the application. He presented an aerial photo of the area and the landscape plan for the temporary use, showing how they planned to use landscaping to camouflage the property. Mr. Mele

TOWN COUNCIL MINUTES

SEPTEMBER 6, 2006

stated that they had instituted security at the site, including 24-hour guards and gates. He reminded Council that the property's current land use was industrial and zoned for a Truck Stop, so if they submitted a Truck Stop site plan that met the Code, Council would be bound to approve it. Mr. Mele felt this plan was a better temporary solution. He stated that the trailer park residents had not attended the public meeting because they acknowledged that this was preferable to a Truck Stop. He indicated that the totality of the circumstances dictated that it was appropriate to grant the special permit.

Mr. Mele confirmed that the owner was currently collecting \$50,000 per month in rent for vehicle storage. Mr. Stallone informed Council that the deadline for complying with the violations was November 2nd. If compliance was not made by that date, the case would be scheduled for a non-compliance hearing, where evidence would be presented and a fine may be levied. Mr. Stallone confirmed that if the violations still existed, the fine would be \$1,000 per day for all four violations. Councilmember Starkey was upset that the owner could profit from the rentals while being fined for the violations.

Mr. Kutney said staff was not happy that the owner had acted without the appropriate approvals either. He informed Council that the manner in which staff had handled this case was "totally consistent" with every action they had taken in the past, including allowing the owner time to rectify the situation before fines were imposed, because their goal was compliance.

Mr. Fildon explained that the wood and chips had been brought onto the property prior to the recent increased security measures' implementation. He indicated that they had never allowed or accepted money to dump on the property and the items to which Councilmember Paul referred had already been removed. Mr. Stallone confirmed that the property was not cited for illegal dumping.

Vice-Mayor Crowley noted that the adjacent properties were as bad as or worse than this property. He indicated that this was a temporary request and Planning and Zoning had made their recommendations and stipulations. Vice-Mayor Crowley said he did not object to the permit, provided the situation was monitored and the site kept tidy.

Mr. Mele confirmed that inspectors would be permitted onto the property during normal business hours for inspection at their discretion. Mr. Stallone confirmed that inspectors had never been denied access to the property.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmembers stated their disclosures.

Councilmember Starkey made a motion, seconded by Councilmember Paul, to deny items 7.5 and 7.6. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Crowley - no; Councilmember Caletka - no; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion failed 2-3)

Mayor Truex felt the request should be approved with conditions and felt the photos were not that bad. Mayor Truex suggested the following conditions: all vehicles the owner had agreed to remove would be confirmed removed; any mulch or tree debris would be removed; inspections would be allowed at the inspector's discretion; any Code enforcement administrative fees would be paid by the owner.

Councilmember Starkey felt Council must "draw the line somewhere" to make the Town better, and this did not include allowing an owner to "get away with" derelict properties because they hoped a developer would improve a property later on.

Mr. Mele agreed to the following conditions: his client would reimburse the Town for staff time, the Special Magistrate and notice fees, and make the property available for inspections; approval of the site plan; payment of retroactive occupational license fees; and a donation to the Police Athletic League in District 1 of \$5,000.

TOWN COUNCIL MINUTES

SEPTEMBER 6, 2006

Vice-Mayor Crowley made a motion, seconded by Mayor Truex, to approve items 7.5 and 7.6 subject to the conditions listed by Planning and Zoning, Mr. Mele and Council. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - no; Councilmember Starkey - no. (Motion carried 3-2)

- 7.6. **SPECIAL PERMIT** - SE 10-1-05, Brauser/Davie Travel Center, 4751 SW 30 Street (TS) (to allow temporary storage of trucks, cars, trailers and other items pursuant to Code Section 12-35) *Planning and Zoning Board recommended approval of a 12-month period with the stipulation that they file a landscape plan with the Town to go through the site plan process; with the uses as stated: no additional uses, no hazardous waste, no fuel storage, oils, grease, any contaminants or flammables that would include any hot tar for roofs or anything, although tar in containers would be fairly safe; no repairs of vehicles; and include staff's recommendations in the planning report*

This item was approved along with item 7.6 subject to conditions.

8. APPOINTMENTS

8.1. Mayor Truex

- 8.1.1. Airport/Transportation Advisory Board (one exclusive appointment - term expires December 2006)

No appointment was made.

- 8.1.2. Agricultural Advisory Board (one exclusive appointment - term expires April 2008) (insofar as possible, members shall have experience in agricultural matters, related occupations or other similar skills)

No appointment was made.

- 8.1.3. Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2008) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

- 8.1.4. Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2008) (members shall be a minimum 60 years of age)

No appointment was made.

- 8.1.5. Water and Environmental Advisory Board (one exclusive appointment; term expire April 2008) (insofar as possible, one member shall be a licensed engineer)

No appointment was made.

8.2. Councilmember Caletka

- 8.2.1. Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

TOWN COUNCIL MINUTES
SEPTEMBER 6, 2006

8.3. Councilmember Paul

- 8.3.1. District Boundaries Review Committee (one exclusive appointment from the respective Councilmember's district; term expires upon submittal of recommendation to the Town Council) (members shall be a registered voter)

Councilmember Paul stated she would appoint Julie Aitken.

- 8.4. Unsafe Structures Board (two non-exclusive appointments; terms expire April 2009) (members shall be permanent resident or have their principal place of business within the Town's jurisdiction) (one appointment shall be a plumbing contractor and one appointment shall be a real estate property manager)

No appointment was made.

9. OLD BUSINESS

- 9.1. Procurement Procedures Manual - Preparation and Training

Mr. Cohen said he was not requesting approval this evening, but was asking that this item be placed in the budget. Council agreed to put \$67,000 in the budget for this matter.

- 9.2. 9.2 Town Administrator Search

Councilmember Paul said Mr. Slavin required clarification regarding interviewing.

Councilmember Caletka said he was extremely dissatisfied with the performance and remarked on Mr. Slavin's lack of communication, professionalism and delays. He was also unsatisfied with the pool of applicants that had been collected. Mayor Truex felt there were valid reasons for the delays, some of which were the responsibility of Council. Mayor Truex had not experienced the lack of communication of which Councilmember Caletka spoke either. Councilmember Starkey was satisfied with the communication level and pool of applicants.

The Council discussed dates for interviews. Mr. Cohen felt they should request Mr. Slavin's "short list" prior to their September 20th meeting, then Council could reduce the list to five candidates on whom to conduct background checks. Council could then interview the candidates at their first meeting in October. Council felt the interview/presentations should be at a special meeting.

10. NEW BUSINESS

No new business was discussed.

11. MAYOR/COUNCILMEMBER'S COMMENTS
COUNCILMEMBER CALETKA

POLICE PRESENCE. Councilmember Caletka said the residents in District 1 had noticed an increased police presence.

VICE-MAYOR CROWLEY

Vice-Mayor Crowley wanted information on the DRI thresholds in the Regional Activity Center and the Traffic Oriented Corridor. Mr. Kutney advised that staff was looking into this and agreed to provide Council with a report prior to putting it on an agenda.

OPEN SPACE PARCELS. Vice-Mayor Crowley requested copies of the letters and responses in District 2 regarding the open space parcels.

**TOWN COUNCIL MINUTES
SEPTEMBER 6, 2006**

MAYOR TRUEX

ARTHUR LAZEAR. Mayor Truex asked that the flag be flown at half-mast for the next week in honor of Arthur Lazear who had recently passed away. Council had no objections.

COUNCILMEMBER PAUL

CUSTOMER SERVICE TRAINING. Councilmember Paul requested that the Human Resources staff be re-trained in customer service policies.

12. TOWN ADMINISTRATOR'S COMMENTS

No comments were provided.

13. TOWN ATTORNEY'S COMMENTS

WAL-MART. Mr. Kiar announced that the Town's decision in the Wal-Mart matter was being appealed and his office had brought in Andrew Maroudis to assist. Council had no objections.

14. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 2:20 a.m.

Approved _____

Mayor/Councilmember

Town Clerk

* * * * *

THIS PAGE
INTENTIONALLY
LEFT BLANK

* * * * *